

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

WILLIAM CHARLES MALONE,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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Case No. 6:19-CV-272-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner William Charles Malone, an inmate proceeding *pro se*, filed the above-styled and numbered petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On July 29, 2019, Judge Love issued a Report and Recommendation (Docket No. 14), recommending that the petition should be dismissed for lack of subject matter jurisdiction as an unauthorized second or successive petition. *Id.* at 2. A return receipt indicating delivery to Petitioner was received by the Clerk on August 12, 2019. Docket No. 15.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Petitioner did not file objections in the prescribed period.¹ The Court therefore reviews the Magistrate Judge's findings

¹ On August 12, 2019, Petitioner filed a motion for extension of time to file objections to the Report. Docket No.

for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").


Having reviewed the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 14) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 14) be **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. A certificate of appealability is **DENIED**. All motions not previously ruled on are **DENIED**. It is finally

ORDERED that the Clerk of Court shall return unfiled any new petitions for a writ of habeas corpus submitted by Petitioner regarding his conviction unless he shows he has received permission from the Fifth Circuit to file it.

So **ORDERED** and **SIGNED** this **28th** day of **January, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE

16. The Court granted the motion on August 15, 2019, and extended the deadline for Petitioner to file objections to September 12, 2019. Docket No. 17. To date, Petitioner has not filed objections.